

1998

Indiana Judicial Report

Supreme Court of Indiana

The Honorable Randall T. Shepard, Chief Justice
The Honorable Brent E. Dickson, Justice
The Honorable Frank Sullivan, Jr., Justice
The Honorable Myra C. Selby, Justice
The Honorable Theodore R. Boehm, Justice

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Indiana Judicial Report

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Supreme Court of Indiana

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1998 Indiana Judicial Report

Introduction

The 1998 Indiana Judicial Report is published by the Division of State Court Administration, pursuant to Indiana Code 33-2.1-7-3. This report is a compilation of statistical data on the workload and related judicial functions of the Indiana judicial system. The period of time covered by this report is the calendar year 1998. Information is arranged in an Executive Summary (Vol. I), Caseload Information (Vol. II), and a Fiscal Report (Vol. III). Data regarding the operation of Indiana's appellate courts is also included in the Executive Summary.

The information published in this report was compiled from Quarterly Case Status Reports filed with the Division by each trial court. In addition, trial courts file a fiscal report annually summarizing their budget, expenditures, and revenue. The caseload reports of the appellate courts are compiled by the administrative offices of those courts. Fiscal data for the State of Indiana is derived from the annual report of the Auditor of the State of Indiana.

This report is not intended to be an exact accounting of funds or a complete detailing of every judicial decision. It is based on summary data and is intended to present an overview of the workload and functioning of the Indiana judiciary. As such, it is intended to be used by trial judges in evaluating their performance and monitoring the caseloads in their respective courts, by trial judges and county councils in the budgeting process, by the General Assembly and its committees in their legislative enactments, by the Division of State Court Administration in its oversight of judicial administrative activities, and by the Indiana Supreme Court in meeting its supervisory responsibilities. Additionally, the information presented in this report is intended to provide a continuous factual basis for long-term judicial planning in the State of Indiana.

Caseload

More new cases were filed in Indiana courts than in any previous year. Corresponding to this increase in new cases, more cases were disposed than in any previous

year. Overall caseload for all case types increased 10% from 1997, which represents an increase of 26% over the past ten years. A decline in the Juvenile Delinquency category of nearly 3,000 cases was offset by increases in Class D Felony and Misdemeanor cases, which increased more than 5,000 cases. Increases are evident in civil, small claims, criminal, and infraction case types. Decreases in juvenile and probate/adoption case types are also reflected in the court statistics.

Despite a statewide statistical shortage of nearly 100 judicial officers, Indiana courts disposed of a total of 1,161,801 cases in 1998, which represents 94% of the number of cases filed in 1998. The most frequent methods of case disposition are Guilty Plea/Admission (28.5%) and Dismissal (21.9%). Bench trials account for 11.9% of case dispositions and Jury trials account for only 0.1% of all case dispositions.

Fiscal

The fiscal data corresponds to fluctuations in caseload, and as a result shows an overall increase in revenues and expenditures for 1998. Total expenditures increased 9.6% from 1997 and total revenues generated through the operation of the courts increased 10.9%.

A total of \$136,303,225 was generated as revenue through the operation of the court system. Of that amount, 48% went to state-level funds, 44% went to county-level funds, and 8% went to local-level funds. Revenues generated through court operations are divided between general funds (68%) and special funds (32%).

State of the Judiciary Address

Chief Justice Randall T. Shepard

before the Indiana General Assembly on January 13, 1999

“A Judiciary With A Plan For Its Future”

Governor O'Bannon and Members of the General Assembly:

There was a time when the best that could be said of Indiana's highly fragmented court system was that the people in it worked hard and honestly.

The challenges of the present era, however, require that we also work smarter. Indiana's judges approach their assignment of rendering justice with a muscular attitude about how we might act collectively to do a better job. The work Indiana judges do collectively becomes weightier with every passing year.

I want to tell you today about our ambitious plans for our own future.

Building a State-Wide Court System

First, there are many things the judiciary can do for itself to build a better system of justice.

The project that will do the most for individual citizens is the implementation of our new tool to assess the relative workload of each Indiana judge. We call it the "weighted caseload system" because it takes into account the caseload of each court, weighted by the differing amounts of time different types of cases require.

The disparities in the workload from one court to the next do much more than affect judges. They affect citizens who need a hearing on a child support order or a domestic violence problem and have to wait too long because they happen to find themselves in an overcrowded court.

The unevenness of the workload is something both the legislature and the courts need to address. Your

committees, for example, have begun using the weighted caseload system as a way to decide which requests for new judges should be approved. We in the court system intend to use this tool to rearrange our local caseloads so that people will have more equal access to justice.

This rearrangement of local assignments will affect every court in every county in every judicial district, and it will be carried out by local judges, as really it only could be. That method is central to our basic strategy for improving local courts: decisions made at the local level, not by the Supreme Court, decisions made by local judges acting cooperatively.

Our project for data processing is more daunting. Thirteen years ago we launched an effort to manage the mass of paper that is a part of Indiana's court system. We have now spent two years designing an Automated Information Management System (we call it AIMS) that will eventually require that information in every county court be stored in the same way so that all court computers can talk to each other and to entities in Indianapolis like the Bureau of Motor Vehicles, and so that members of the public will have easy access to information about the status of pending cases, including their own. Creating this kind of public access may take five or ten years, but we are determined to begin.

We are also looking at ways to improve the venerable jury system. With the help of a substantial grant, the Citizens Commission on the Future of Indiana Courts will this year conduct surveys and hold public hearings to devise new ways of selecting jurors, new ways of arming them with the information we need, in short, planning to make sure the jury system can meet the needs of the next century.

We also realize we must continue to find ways to justify the public's trust in us. Led by Court of Appeals Judge Jim Kirsch, a broad-based working group, which includes Representative Jeff Linder, is taking part in a nationwide effort to raise trust and confidence in the judiciary. Judge Kirsch will lead Indiana's team to Washington this spring for a national summit we believe will lead to longstanding improvements in the system of justice.

We are also determined to help people who are forced to come to court without adequate legal help. There are far too many citizens confronting legal problems who cannot afford a lawyer, and, fortunately, there is a strong impulse among practicing lawyers to contribute their time pro bono.

We intend to create committees in every judicial district to take better advantage of this willingness to contribute. The Supreme Court has recently appointed judges to lead the first two of these efforts, Judge William Davis in northwest Indiana and Judge David Dreyer in the district in and around Indianapolis. During 1999, we will extend this planning to every other region of the state and eventually finance the new projects it develops using funds generated by our program of Interest on Lawyer Trust Accounts.

On the criminal law side, we are rapidly improving public defender services in local courts, using legislation you gave us for the Indiana Public Defender Commission in 1993. The same year you passed that legislation, the Indiana public defender system had made the front page of *The American Lawyer* as a system that "pervasively neglected the people it was supposed to help. Six years later, Indiana is in a different position. Sixteen Indiana counties, now have state-approved public defender systems and another twenty-some are in the pipeline. This year, the Department of Justice has invited us to tell the story of Indiana's progress at a national conference. And Indiana's effort has been noticed even overseas, as a British book says "few states can match Indiana's initiative" in public defender services.

Did we do this because Indiana legislators and judges have an affection for burglars? It is because Indiana has believed since 1856 that people facing a loss of liberty should not go to court without a lawyer simply because they are too poor.

Mistake me not. Indiana is a place that is tough on crime. But it is also a place that believes some people deserve a second chance and that we ought to do the best job we can at sorting out one from the other.

These are very consequential and difficult challenges which we as a judiciary are undertaking, all at the same time.

Our Own Capacity

A court system willing to take on those kinds of challenges is fairly serious about building its own capacity to act.

For example, we need to be better equipped to deal with the pervasive problem of drug and alcohol abuse. A shocking amount of crime is directly related to substance abuse, and sometimes, the most effective solution is prison. For people in the early stages of dependency, however, treatment conducted under the threat of incarceration may make an enormous difference. We are now in the midst of implementing legislation you gave us in 1997. We have court-annexed drug and alcohol programs in some fifty-five counties and our determination to make them more effective ought to help us fight this sort of crime.

I believe much progress has been made in recent years in improving the working relationship between juvenile court judges and the child welfare caseworkers and deputy prosecutors who bring child abuse, neglect and delinquency cases to court. Such cooperation is good for children -- and good for taxpayers.

The most costly part of juvenile justice is the cost of placing children in foster care or specialized institutions. The ability to make efficient placement

decisions requires good management and good information. Our Judicial Center will now issue regular and detailed information about all facilities in Indiana that have space available, including the rates. And as you consider in this session changing the funding mechanism for the placements, you can count on us to do our part to hold costs down.

Within the last few months, for example, we have decided to take over our destiny with respect to the Internet, installing our own web server to be programmed for the work done by judges. We expect soon to use the Internet and e-mail for creating an electronic clearinghouse to allow judges to ask each other questions about problems they confront, and supply ideas and dialogue, post notices about meetings. A stronger judiciary has to be able to communicate with itself in the way that people do in the modern world.

Guiding the Profession

We are also a judiciary determined to re-shape the future of the legal profession as a whole.

One of our objectives is to create more opportunity for minority and other disadvantaged students who aspire to join the profession. You've given us the best tool in the nation to do that, Indiana CLEO, the Conference for Legal Education Opportunity.

The second class of CLEO is here in the balcony. Won't you welcome them?

We have also been asking new questions about what it should take to become an Indiana lawyer. Many of you will recall that some seven years ago we decided to add a separate test on ethics as a condition to practicing in our state. Now, we are about to redesign the bar examination itself.

We want Indiana's new lawyers to be people who know what the law is, but we also want them to be good problem solvers. To make it clear that we want lawyers who can effectively apply the techniques of lawyering to help answer people's particular problems, in 1999 we expect to add the National

Performance Test to the battery of examinations one must master to receive an Indiana law license.

We will pursue that same objective by re-writing the rules on continuing legal education. During the twelve years since we adopted mandatory continuing education for lawyers and judges, brand new lawyers have been exempt from CLE for the first three years of their practice. But everyone has come to realize that if anything, young lawyers need serious, practical training from the day they leave law school. Now, brand new lawyers will be sent to the sort of training that helps bridge gaps between what they learn in law school and what they need to know to help clients out in the real world.

Other Branches

Ours is a judiciary which has not been shy about asking the other branches for the tools we need to do justice.

In this year's session, for example, we hope the General Assembly will provide additional judges and magistrates in various places, in accordance with the recommendations of your Commission on Courts. The leadership of both the House and Senate judiciary committees seem satisfied that there are a number of counties where there simply are not enough hands to hear the cases people bring to the local courthouse, and that the delays citizens experience in those places are unacceptable. It has been four years since you added to our workforce and we have thirty or forty thousand more cases in the meantime.

We are also ready to do something on family courts.

The 1996 session adopted resolutions urging the study of family courts, courts that deal with the family as a unit. Family court bills have now passed both houses during the two ensuing sessions.

We suggest experiments with family courts in three counties, and we ask in our budget for the money to make those experiments take wing. I'm glad to say that the O'Bannon administration and the State

Budget Committee have recommended the money to make this happen in 1999.

One more important thing that happened in 1998 and needs to happen again is action on the proposal for a constitutional amendment to alter the jurisdiction of the Supreme Court. We are very grateful for your virtually unanimous adoption of this amendment in last year's session. As you know, this proposal needs to be passed by this General Assembly before it can be submitted to the voters. It will help us move toward a Court that can both handle its caseload and manage its future.

We also ask that you approve the recommendation of your Commission on Courts for a modest pay adjustment for judges and prosecutors. Since the last such raise in 1997, the other 35,000 full-time employees have had two raises. My first choice would be to change the way we make decisions about pay. Until we can get that done, it is important not to fall back into the old pattern of waiting to act until the cost grows nearly unmanageable. Regular adjustments will make our work on pay bills less difficult for all of us.

We also need to solve the problem of judicial and legislative space that has been brewing now for thirty years. A few members of today's legislature were here during the 1971 session when the General Assembly voted by lopsided margins to construct a judicial building so that the legislative branch could occupy the space we now use in the State House. Even more of you were here in 1984 when the legislature voted to do that a second time.

The problems that led to legislation in 1971 and 1984 have not disappeared. They have become worse.

These are hardly just problems for public officials. They are problems for citizens who come here to attend hearings and cannot get in the hearing room, or come to visit their representatives and find there is no place to meet. It is a problem for a fractured Court of Appeals with some judges here and some a block away. It is a problem for a Tax Court that has

no courtroom. It is a problem for a Supreme Court, most of whose staff is across the street.

Most of you know how much I love this building and how important I think it is that the three branches regularly interact here in the State House. Still, it seems obvious that the present arrangement is utterly inadequate and that the Grubb plan, involving facilities across Ohio Street for both the judicial and legislative branches is the best option for the future. I say that future should begin in 1999.

Conclusion

In short, we confront a time of enormous challenge and we have under way all sorts of projects in which the Indiana judiciary has made the decision that it can be better.

1998 Report

Division of State Court Administration

Introduction

The Division of State Court Administration assists the Indiana Supreme Court in the administration and management of Indiana's judicial system. The Division was established by statute, Indiana Code 33-2.1-7-1, and is under the direct authority of the Chief Justice. Duties of the Division are assigned by the Supreme Court and the General Assembly. Following are some of the responsibilities and accomplishments of the Division during 1998.

Statistics

Pursuant to Indiana Code 33-2.1-7-3 and Administrative Rules 1 and 2, the Division collects and publishes information on the caseload and fiscal activities of all courts and probation offices throughout the state. The data is published annually in a multi-volume report entitled The Indiana Judicial Report and The Indiana Probation Report. This data provides empirical information which is used for policy decisions by the Indiana Supreme Court and the Indiana General Assembly.

Legal Responsibilities

The majority of the legal responsibilities of the Division staff are assigned by the Supreme Court and the Chief Justice. The Division legal staff serves as counsel to the Supreme Court in all matters involving attorney discipline and all requests for the appointment of special judges, special masters, and senior judges. In 1998, Division legal staff assisted the Supreme Court in disposing of seventy-one disciplinary matters and one contempt matter. In thirty-six cases, a per curiam opinion was issued. As part of this disciplinary function, Division staff conducts preliminary investigations of disciplinary grievances filed against members and staff of the Indiana Supreme Court Disciplinary Commission, as well as requests for review of decisions by the Disciplinary Commission and the Indiana Commission on Judicial Qualifications.

Supreme Court rules governing the method of special judge selection call for the establishment of local rules for such selection and certification to the Supreme Court in certain unusual circumstances. The Division maintains and monitors all local rules establishing plans for special judge selection, and reviews and processes requests for the appointments of special judges by the Supreme Court. In 1998, 165 new requests for special judge appointments were reviewed.

The managerial and administrative responsibilities of trial judges is affected by a growing number of federal and state laws, rules and regulations. Since 1996, Division legal staff has provided individual assistance and advice to trial judges on employment related issues. Additionally, staff has provided training both on a regional and local level on issues such as Sexual Harassment, the Americans With Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, and Effective Disciplining and Terminating Problem Employees.

Rule Amendments and the Supreme Court Committee on Rules of Practice and Procedure

The Executive Director of the Division serves as Executive Secretary of the Indiana Supreme Court Committee on Rules of Practice and Procedure and assists the Committee and the Supreme Court in drafting and promulgating amendments to the Indiana Rules of Court. In 1998, staff assisted the Committee and the Court in the study, drafting and promulgation of a number of rule amendments, the most notable being an amendment to Admission and Discipline Rule 3, which governs the temporary admission of foreign attorneys. New rule amendments are now deployed on the Internet through the Supreme Court's web page on Access Indiana.

Judicial Qualifications/Nominating Commission

Pursuant to Indiana Code 33-2.1-7-3(a)(4), the Division provides legal and administrative staff support to the Indiana Judicial Qualifications Commission and the Indiana Judicial Nominating Commission in the performance of their statutory and constitutional functions. As part of this function, Division staff distributes, collects, and processes all Statements of Economic Interests submitted by judges and prosecuting attorneys.

Senior Judge Program

In 1989, the General Assembly enacted legislation allowing the Indiana Supreme Court to utilize the services of former judges who have been certified as Senior Judges by the Indiana Judicial Nominating Commission. The program, small at first, has grown into an invaluable resource of seasoned judicial talent at minimal cost. During 1998, some 1700 days of service in trial courts and the Indiana Court of Appeals were logged by senior judges. The number of senior judges statewide approaches seventy. The Division administers all aspects of the program, starting with certification by the Nominating Commission, processing of requests for appointments by the Supreme Court, and administration of payroll and benefits for the participants. During 1998, 244 requests for senior judge appointments to specific courts were processed by the Division.

Weighted Caseload Measures

Weighted caseload measures were developed as part of a two-year study of Indiana trial courts conducted by the Judicial Administrative Committee of the Indiana Judicial Conference and an independent consultant. This system of a caseload measurement applies a weighting factor to each case type based on statewide averages and activities which are conducted in that particular case category. The weighted caseload is then compared to available judicial officer time in each court. Statewide, the weighted measures indicate the need for approximately 100 additional full-time judicial officers. Additionally, a measure of relative severity

was developed and applied to the statistics. The measure represents a need-based ranking of counties calculated by apportioning the judicial shortage among the existing judicial officers. The Relative Severity Report and weighted caseload measures were the primary tools used by the legislatively created Commission on Courts in recommending to the General Assembly the addition of about thirty new state paid judicial officers.

AIMS

The Division is now in Phase III of the AIMS (Automated Information Management System) Project, which is intended to address three major points: development of software standards, development of a vendor certification program, and connectivity issues between courts in different jurisdictions. An independent consultant has been retained to complete work in the Phase III project. The AIMS prototype developed in Phase I and II is available on the Internet, along with preliminary standards developed from the prototype design. Future updates on the AIMS project will be made available on the Internet.

Indiana Conference for Legal Education Opportunity (CLEO)

During 1997 the Indiana legislature established the nation's first state sponsored Conference for Legal Education Opportunity (CLEO) and directed that the Division administer the operation under the leadership of the Chief Justice. The goal of this program is to increase the number of minority and other disadvantaged students in Indiana's law schools. The program is patterned after the well-known national CLEO program. It provides an intensive summer institute for selected prospective Indiana law school students and provides monetary stipends to those who successfully complete the institute and pursue a legal education in an Indiana law school. After the successful completion of the first summer institute in 1997 and the graduation of twenty-nine CLEO fellows, Division staff worked closely with the CLEO Advisory Committee chaired by Chief Justice Shepard to recruit and select the second CLEO Class. Also during 1998, as part of

the CLEO program, Division staff assisted in the development of a successful jobs program which helps the students gain employment experience within the Indiana legal community.

Civil Legal Aid Fund

Beginning in 1997, the Division became responsible for administering a state fund for legal assistance to indigent persons in civil cases. In 1998, the Division made two distributions, totaling one million dollars, to eleven organizations providing civil legal aid services to Indiana's poor. Distributions are based upon an analysis of each county's civil caseload, as it relates to the caseload for the entire state, and the number of organizations serving each county. During 1998, the initial structure for a data collection system was established to evaluate the extent and type of service provided by the organizations participating in this program.

Court Improvement Grant

The Indiana Supreme Court, through its Court Improvement Executive Committee and with the benefit of federal funds, continued its Court Improvement Project by funding county-level subgrantees to assist them in managing the cases of abused and neglected children. The Division serves as the project director and fiscal administrator for the program. The project could potentially span six years and involve in excess of \$700,000 in grant funds. Although the purpose and overall framework of the project are set by the U.S. Department of Health and Human Services and the American Bar Association's Center on Children and the Law, the direction and breadth of issues addressed by the Indiana program have been guided by the Supreme Court, members of its committees, and in large measure by the input of key players and primary participants in the child welfare process. The first phase of the program involved a comprehensive study of the role, responsibilities, and effectiveness of the state's judicial system in handling child abuse and neglect cases. The resultant Phase I report identified several areas of particular concern and recommended expediting Children in Need of Services cases, expanding Court Appointed Special

Advocate programs, using early intervention programs for at-risk families, developing "wrap-around" programs, initiating therapeutic foster home programs, and developing relationships with local media. Using this as a guide, eighteen sub-grantee county-level programs were initiated during 1998. Each of the sub-grantees was selected for funding based on grant applications targeting methods for achieving one or more of the goals set forth in the 1997 report.

Information Management

Pursuant to a statutory directive, the Division is to examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices serving the courts and recommend necessary changes. As part of this duty, the Division assists Indiana courts with the management of judicial information from its creation, to access, maintenance, and disposal. A core goal is the disposal of unnecessary records through the use of a records retention schedule promulgated by the Supreme Court. As part of this effort, the equivalent of seventy four-drawer file cabinets were destroyed throughout Indiana's courts in 1998. In carrying out this function, the Division publishes extensive administrative manuals covering a wide range of topics such as confidential files, protective orders, and various court forms. Statutory changes were recently made to three protective order forms which were then distributed to the courts and made available on the Internet. Staff conducted fifteen on-site visits over twenty-nine days in an effort to help courts and clerks in their information management duties.

Payroll and Claims

The Division administers the payroll and benefit program for all state trial court judges, prosecuting attorneys, and other judicial officials paid with state funds. The annual payroll account for this purpose is nearly \$40,000,000 and covers approximately six hundred individuals. Also, as part of this "paymaster" function, the Division processes and pays all claims for special and senior judge service.

Indiana Office of GAL/CASA

As part of the Division of State Court Administration, the General Assembly established an office of Guardian Ad Litem/Court Appointed Special Advocate (GAL/CASA) in 1989, to provide partial state funding to assist local courts in providing services to victims of child abuse and neglect. During 1998, eighty counties received funds from the GAL/CASA state appropriation. Also during 1998, the staff monitored the implementation of a Code of Ethics and Program Standards and conducted site visits to local programs seeking certification of compliance with the code. Seventeen programs have been certified as complying with the code. Staff also organized and implemented regional directors' meetings which provided continuing education for local CASA directors. In November, Division staff was instrumental in the 1998 Indiana CASA Conference attended by over two hundred participants and offering a variety of workshops.

Public Defender Commission

The Division is responsible for providing staff support to the Indiana Public Defender Commission. The Commission sets standards for pauper defense services for capital and noncapital cases, and administers a program of reimbursements to counties under IC 33-9-14-4. Staff visited and worked with over twenty counties on developing plans for their participation in the program. Currently thirteen counties have adopted approval plans and now participate in the noncapital reimbursement program, and more than thirty counties have expressed an interest in qualifying for reimbursement. In 1998, the Commission approved reimbursements to eight counties in capital cases, totaling \$522,058. Reimbursements in noncapital cases for 1998 were \$1,737,044.

Publications and Internet Information

The Division publishes a newsletter, *The Indiana Court Times*, as a communication link with the trial courts and their staff. The production of the *Indiana Court Times* was shifted to a bi-monthly schedule in 1998, and more regular features were added to

address the changing needs of the courts. More than two thousand entities receive the *Indiana Court Times*. In addition, the Division began work on adding information to the judicial website which is found at www.state.in.us/judiciary/. This website now contains judicial opinions, downloadable forms, information about the AIMS project, statistical reports and graphs, information about the Indiana court system, information about the Division and its staff, and all new rule amendments. The *Indiana Court Times* was also added to the website in December 1998 in a downloadable PDF format.

Automation

The Division provides all automation services to the appellate level courts and their agencies. During 1998, the technical services section installed over eighty new PCs in the appellate courts and Supreme Court agencies. A new CD-ROM and modem server were installed for use by the five Supreme Court agencies allowing the sharing of modems for access to Westlaw research, Premise, and Shepard's. The Help Desk received and responded to 596 calls during the year.

Perhaps the most significant project was the complete rewiring of the Supreme Court Justices' chambers, administrative offices, the Supreme Court Library, and the State House basement computer room to category five data wire and fiber optic closet connections. This process upgraded the speed of the network and prepared the court and its agencies for direct connection to the Internet. Two high speed T1 data lines, with routers on both ends, were installed and configured for the Internet connection. The first line provides direct connection from the Internet to the firewall and the second connects the State House to the other court offices located in the National City Center Bank building. A new AS/400 web server, firewall server, HTTP server, and Notes/Domino server were configured and installed to serve as the gateway to the Internet for the Court. A new AS/400 application/Internet E-mail server was also configured and installed. PCs for the Justices and staff attorneys were reconfigured to allow direct connection to the web server. The Indiana Judicial

Center was also directly connected to the Internet. Internet mail boxes were also moved from the Information Services Division (ISD) of the state to our own equipment, thus eliminating the need to use a modem to dial-up for Internet access.

Staff programmed and installed a new mediation tracking system for the Commission on Continuing Legal Education. It includes a registry, a financial list system, and a list of independent certifying organizations. Staff also wrote a series of twelve monthly reports for the Court of Appeals to provide management information on caseload, assignment, disposition, and case age. The attorney and microfilm applications for the Clerk's office were rewritten for Y2K. The internal Special Judge Log and claims systems were also rewritten for Y2K and for changes in the handling of claims. A new attendance tracking system was developed for the Supreme Court. The Board of Law Examiners added an LLC and LLP application and modifications were made to the Disciplinary Commission's system for Y2K and minor changes. Application programs have been checked for year 2000 compliance and found to be in good working order. Hardware platforms were also spot checked for the ability to understand the year 2000.

Indiana's Judicial System

Introduction

The Constitution of Indiana sets out the three branches of state government, the Legislative, the Executive, and the Judicial. The Constitution also provides that the judicial power of the State of Indiana is vested in a Supreme Court, a Court of Appeals, Circuit Courts and such other courts as the General Assembly may establish.¹ The Supreme Court and the Court of Appeals are appellate-level courts, while the Circuit Courts are the courts of general jurisdiction.

Traditionally, Indiana's trial court system has been organized on a county basis through enabling legislation establishing courts in specific counties. As provided in the Constitution, the state has been divided into circuits which are based on county lines. Some of the less populous counties have been joined together into one circuit, although today there remain only two such circuits, each comprised of two counties.

As local needs grew and more trial courts became necessary, the Legislature created additional courts of general and limited jurisdiction, but such courts continued to be structured on a county basis with the county bearing all expenses for court operations, save the judges' salaries. The superior and county courts are such legislatively created courts. The Tax Court is another legislatively created appellate level court. For the most part, superior courts have general jurisdiction just as the circuit courts while the county courts have more limited jurisdiction.

Due to this autonomous nature of the trial courts, historically there has been little uniformity in many of the administrative operations within the judicial system. Employment of court personnel, funding, use of technology and many aspects of court operations are handled at the local level. As a result, court structure and court related services have varied widely from county to county. Recently, however, more unified administrative and record keeping procedures have been implemented. As a

result, Indiana now has a uniform case numbering system for every case filed in the state, a uniform schedule of retention for court records, uniform microfilming standards, and a uniform record keeping process mandated for every trial court in the state.

All counties have circuit courts. In addition, many counties have superior courts, county courts or both. Marion County is the only county with distinct small claims courts. St. Joseph County is the only county with a specialized probate court which also has juvenile jurisdiction.

Legislation also exists enabling cities and towns to establish city and town courts. In the majority of instances, city and town courts process traffic matters. With some exceptions, the city and town court judges are not required to be attorneys.

Following is a description of the types of courts currently in existence in Indiana. For specific listings of courts in each county, see the Judicial Officer Rosters at the end of this volume. A Roster of the names of judges and judicial officers appears in Volume II.

The Indiana Supreme Court

The Supreme Court has five justices, one of whom is the Chief Justice of the state (selected by the Indiana Judicial Nominating Commission).²

The Supreme Court has original exclusive jurisdiction in (1) admission to the practice of law; (2) discipline and disbarment of those admitted; (3) unauthorized practice of law; (4) discipline, removal and retirement of judges; (5) exercise of jurisdiction by other courts; (6) issuance of writs necessary in aid of its jurisdiction; (7) appeals from judgments imposing a sentence of death, life imprisonment or imprisonment for a minimum term greater than 50 years for a single offense; (8) appeals from the denial of post-conviction relief in which the sentence was death; (9) appealable cases where a state or

federal statute has been declared unconstitutional; and, (10) on petition, cases involving substantial questions of law, great public importance, or emergency.³

The justices of the Supreme Court are appointed by the Governor after nomination by a judicial nominating commission. After an initial two-year term, they run on a "Yes—No" retention ballot, and, if successful, they then serve ten-year terms.⁴

The Court of Appeals of Indiana

The Court of Appeals became a constitutional court under a 1970 revision of the Constitution. The Judicial Article provides that the state be divided into geographic districts by the General Assembly, and that each district have three judges.⁵ The Court of Appeals has five districts, with a total of 15 judges.⁶ The judges select one of their number as chief judge, and each district elects a presiding judge.⁷ The Court of Appeals has no original jurisdiction except as authorized by Supreme Court rules to review directly final decisions of certain administrative agencies.⁸ It has jurisdiction over all appeals not taken to the Supreme Court.

The judges of the Court of Appeals are selected in the same manner and serve the same terms as the Supreme Court justices.

The Indiana Tax Court

The Tax Court came into existence on July 1, 1986. The Tax Court is an appellate level court with one judge who is selected in the same manner as are judges of the Court of Appeals.⁹ The Tax Court has exclusive jurisdiction in original tax appeals, which are defined as cases that arise under the tax laws of this state and which are initial appeals of a final determination made by (1) the Department of State Revenue; or (2) the State Board of Tax Commissioners.¹⁰ The principal office of the Tax Court is located in Indianapolis although a taxpayer may select to have all evidentiary hearings conducted in one of seven other specifically designated counties.

The Tax Court must also maintain a small claims docket for processing (1) claims for refunds from the Department of Revenue that do not exceed \$5,000 for any year; and (2) appeals of final determination of assessed value made by the State Board of Tax Commissioners that do not exceed \$15,000 for any year.¹¹ Appeals from the Tax Court are taken directly to the Supreme Court.¹²

Circuit Courts

The Indiana Constitution directs that the state be divided into several circuits by the General Assembly.¹³ Eighty-eight of a total of 92 counties constitute 88 circuits, while the remaining four counties are in two "joint" circuits with two counties each. There are 96 circuit court judges.

The circuit courts are vested with unlimited trial jurisdiction in all cases, except when exclusive or concurrent jurisdiction is conferred upon other courts. They also have appellate jurisdiction over appeals from city and town courts.¹⁴ Generally, the circuit courts in counties without superior or county courts maintain small claims and minor offenses divisions. Civil actions in which the amount sought to be recovered is less than \$3,000 and landlord and tenant actions in which the rent due at the time of the action does not exceed \$3,000 may be filed on the small claims docket.¹⁵ Class D felonies, all misdemeanors, infractions and ordinance violations are heard on the minor offenses dockets.¹⁶ Cases on the small claims docket are heard in a more informal atmosphere and without a jury.¹⁷ In the remaining counties, the small claims docket and minor offenses docket have been established within either the superior or county court of the county.

The judges of the circuit courts (with the exception of the Vanderburgh Circuit Court where the judge is elected in a nonpartisan election)¹⁸ are elected every six years by the voters of each circuit.¹⁹

Superior Courts

Superior courts are created by statutes enacted by the General Assembly. Though their organization and jurisdiction may vary from county to county, for

the most part they are courts of general jurisdiction. They have the same appellate jurisdiction as circuit courts over appeals from city and town courts.²⁰

As of December 31, 1998, there were 182 Superior court judges, with one of them serving two counties.²¹ In some of the counties, statutory language sets up one unified Superior court with two or more judges, while others, through internal rules, operate their courts as unified county systems.

In counties which have Superior courts but no County courts, the small claims and minor offenses divisions are established in the Superior courts. These divisions have the same small claims and minor offenses dockets as the Circuit courts.

With the exception of four counties, the Superior court judges are elected at a general election for six-year terms.

In Lake²² and St. Joseph Counties, the Superior court judges are nominated by local nominating commissions and then appointed by the Governor for six-year terms. Thereafter, they run on a “yes — no” retention ballot. The judges of the Vanderburgh Superior Court are elected in non-partisan elections. In Allen County the Superior court judges are elected at the general election on a separate ballot without party designation. Vacancies, however, are filled by the governor from a list of three candidates nominated by the Allen County Judicial Nominating Commission.

Probate Courts

St. Joseph Probate Court is the only distinct probate court remaining in Indiana. The court has one judge and has original jurisdiction in all matters pertaining to the probate of wills, appointment of guardians, assignees, executors, administrators and trustees, settlements of incompetents’ estates, and adoptions.²³ The court also has exclusive juvenile jurisdiction.²⁴

The judge is selected by the voters of the county at a general election for a six-year term.

County Courts

County courts began operating on January 1, 1976, when the Justice of the Peace courts were abolished. Since their establishment, there has been a steady move toward restructuring County courts into Superior courts with small claims/misdemeanor divisions. As of December 31, 1997, there were thirteen County courts.

The County courts have original and concurrent jurisdiction in all civil cases founded in contract or tort where the damages do not exceed \$10,000, possessory actions between landlord and tenant, and all actions for the possession of property where the value of the property sought to be recovered does not exceed \$10,000, Class D felonies, misdemeanor and infraction cases, and violations of local ordinances.²⁵ The County courts also have small claims dockets similar to those of the Circuit courts. Civil cases of up to \$3,000 and possessory actions between landlord and tenant, in which the rent due does not exceed \$3,000, are filed on the small claims dockets.²⁶

The County courts are specifically precluded from exercising any jurisdiction over cases involving injunctive relief, partition of or liens on real estate, paternity, juvenile, probate, receivership or dissolution of marriage matters.²⁷ The County courts may conduct preliminary hearings in felony cases.²⁸ Appeals from the County courts, including their small claims dockets, go to the Indiana Court of Appeals in the same manner as appeals from the Circuit and Superior courts.

The County court judges are elected by the voters of the county or counties which the court serves for six-year terms.²⁹

Local Courts

City and Town courts may be created by local ordinance.³⁰ A city or town which establishes or abolishes its court must give notice to the Division of State Court Administration.³¹ As of December 1998, there were forty-seven City courts and twenty-five

Town courts.

Jurisdiction of city courts varies depending upon the size of the city. All City courts have jurisdiction of city ordinance violations, misdemeanors and infractions.³² The City courts also have civil jurisdiction of cases where the amount in controversy does not exceed \$500. They have no jurisdiction in actions for libel, slander, real estate foreclosure, where title to real estate is at issue, matters relating to decedents' estates, actions in equity and actions involving the appointment of guardians.³³ The civil jurisdiction of City courts in Lake County extends to cases where the amount in controversy does not exceed \$3,000.³⁴ The City courts in Lake County also have extended criminal jurisdiction so that they may hear cases involving violations of all state statutes but can only impose a fine of up to \$1,000 and a sentence of not more than one year. A City court in a third class city which is not a county seat³⁵ has civil jurisdiction of cases involving up to \$1,000. Effective 7/1/96, the City court's civil jurisdiction increased to \$3,000.³⁶ City and Town courts are not courts of record, and appeals are tried *de novo* in the circuit or superior court of the county.³⁷ Town courts have exclusive jurisdiction of all violations of town ordinances and jurisdiction of all misdemeanors and infractions.³⁸ Appeals from judgments of a Town court are also taken to the Circuit or Superior court of the county.³⁹

City and Town court judges are elected for four-year terms by the voters of the city or town. The judges of Anderson City Court, Avon Town Court, Brownsburg Town Court, Carmel City Court, East Chicago City Court, Gary City Court, Hammond City Court, Muncie City Court, Noblesville City Court, and Plainfield Town Court must be attorneys.⁴⁰

Small Claims Courts

Only Marion County has a distinct Small Claims Court. The Marion County Small Claims Court has nine divisions. Each division has jurisdiction in the township in which it is located. The court's jurisdiction is concurrent with the Circuit and Superior courts in all civil cases founded on contract

or tort in which the claim does not exceed \$6,000,⁴¹ in actions for possession of property where the value of the property sought to be recovered does not exceed \$6,000,⁴² and in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed \$6,000.⁴³ The Small Claims courts have no jurisdiction in actions seeking injunctive relief, in actions involving partition of real estate, or in declaring or enforcing any lien thereon (with certain exceptions), in cases in which the appointment of a receiver is requested, or in suits for dissolution or annulment of marriage.⁴⁴ The Small Claims courts are not courts of record,⁴⁵ and appeals are tried *de novo* in the Marion Superior Court.⁴⁶

The Small Claims court judges are elected by the voters within the township in which the division of the court is located. The judges serve four-year terms.⁴⁷ There are currently nine Small Claims Court divisions within Marion County.

1. Ind. Const., Art. 7, Sec. 1, IC 33-2-1-1; IC 33-2.1-2-
2. Ind. Const., Art. 7, Sec. 2; IC 33-2.1-2-1.
3. Ind. Const., Art. 7, Sec. 4; Ind. Rules of Ct., App. Rule
4. Ind. Const., Art. 7, Sec. 11; IC 33-2.1-2-6.
5. Ind. Const., Art. 7, Sec. 5.
6. IC 33-2.1-2-2.
7. IC 33-2.1-2-4.
8. Ind. Const., Art. 7, Sec. 6; Ind. Rules of Ct., App. Rule 4(B).
9. IC 33-3-5-1 and IC 33-3-5-6.
10. IC 33-3-5-2; Ind. Tax Court Rule 2B.
11. IC 33-3-5-12. Effective 3/1/2001, the Tax Court's jurisdiction of appeals of final determinations of assessed value made by the State Board of Tax Commissioners will apply to amounts that do not exceed \$45,000. IC 33-3-5-12, as amended by

- P.L. 6-1997, SEC. 200.
12. IC 33-3-5-15.
 13. Ind. Const., Art. 7, Sec. 7.
 14. IC 33-4-4-3 and IC 33-10.1-5-9.
 15. IC 33-4-3-7.
 16. IC 33-4-3-11.
 17. IC 33-4-3-8.
 18. IC 33-5-43.2-1.
 19. Ind. Const., Art. 7, Sec. 7; IC 3-10-2-11;
IC 33-4-4-1.
 20. IC 33-10.1-5-9.
 21. One superior court serves both Ohio and
Switzerland counties.
 22. Effective 1/1/89, the three Lake County Courts
became Superior Courts, County Court Division.
However, as the County Court Division, they
continue to be elected in a political election. IC 33-
5-29.5-42.5, as added by P.L. 334-1989.
 23. IC 33-8-2-9.
 24. IC 33-8-2-10.
 25. IC 33-10.5-3-1.
 26. IC 33-10.5-7-1.
 27. IC 33-10.5-3-2.
 28. Id.
 29. IC 33-10.5-4-2.
 30. IC 33-10.1-1-3.
 31. IC 33-10.1-1-3(e).
 32. IC 33-10.1-2-2.
 33. IC 33-10.1-2-3.1.
 34. IC 33-10.1-2-4, as amended by P.L. 215-1996,
SEC. 3.
 35. IC 33-10.1-2-5.
 36. IC 33-10.1-2-5, as amended by P.L. 109-1996,
SEC. 4.
 37. IC 33-10.1-5-9; IC 33-10.1-5-7(a).
 38. IC 33-10.1-2-7.
 39. IC 33-10.1-5-9.
 40. IC 33-10.1-5-7, as amended by P.L. 196-1999,
Sec. 58. Effective 7/1/97, the judge of "a city or
town court located in Lake County" must be an
attorney. IC 33-10.1-5-7, as amended by P.L. 12-
1997, SEC. 3.
 41. IC 33-11.6-4-2.
 42. IC 33-11.6-4-3.
 43. Id.
 44. IC 33-11.6-4-4.
 45. IC 33-11.6-1-4.
 46. IC 33-11.6-4-14.
 47. IC 33-11.6-3-1 and 33-11.6-3-4.